



USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 10/22/2021

GEORGIA M. PESTANA
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, NY 10007

John Schemitsch
Senior Counsel
Phone: (646) 740-1295
Fax: (212) 356-3509
jschemit@law.nyc.gov

October 20, 2021

BY ECF

Honorable Analisa Torres
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Garelnabi Abusikin v. City of New York, et al., 18-CV-4582 (AT) (KNF)

Your Honor:

I am a Senior Counsel in the office of Georgia M. Pestana, Corporation Counsel of the City of New York, representing defendants City of New York and Officer Mirjan Lolja in the above-referenced matter. Defendants respectfully request an order directing plaintiff to produce to defendants his portions of the joint pretrial order, joint request to charge, joint proposed verdict form, and joint proposed *voir dire* questions ("pre-trial filings") by close of business October 21, 2021 in order for defendants to finalize their portions of the documents so the parties may submit them by the Court's November 1, 2021 deadline.

By way of background, as the undersigned has previously advised the Court, defendants have repeatedly reached out to plaintiff's counsel, requesting he provide his portions of the pre-trial filings, so defendants may draft and provide their portions for any necessary response by plaintiff. (See ECF No. 94, 96, and 100). Plaintiff's counsel provided a preliminary draft of his portion of the joint pre-trial order, notably missing portions including specific transcript citations for testimony plaintiff planned to use in his case in chief. Plaintiff's counsel did not provide any of plaintiff's portions of the remaining pre-trial filings. As such, the Court adjourned the trial scheduled to begin on October 25, 2021, and directed the parties to submit the pre-trial filings by November 1, 2021. (See ECF No. 101). The undersigned wrote to plaintiff's counsel on September 24, 2021 by e-mail, requesting plaintiff provide his portions of the pre-trial filings by no later than October 8, 2021 so that defendants could draft their portions and send back for any necessary responses. Plaintiff's counsel responded the same day, advising he was working on the additional documents. Having received no further response, the undersigned followed up with plaintiff by e-mail on October 14, 2021. To date, the undersigned has received

no further response from plaintiff's counsel and no additional pre-trial filings beyond the preliminary draft joint pre-trial order.

As plaintiff has been unable to produce a complete version of his portion of the joint pretrial order or any other related pretrial documents, defendants cannot comply with the Court's deadline. Moreover, plaintiff holds the burden of proof in this case, and is prosecuting this matter. The evidence he anticipates presenting at trial may impact defendants' strategy and what is put forth in the joint pre-trial order, as well as what motions *in limine* defendants may make. It is difficult for defendants to make a final determination on motions *in limine* or complete joint documents. In the absence of plaintiff's submissions, defendants cannot produce meaningful pre-trial filing. As such, defendants request that the Court direct plaintiff to produce his portions of all pretrial filings to defendants by no later than close of business on October 22, 2021 so that the parties may meet the November 1, 2021 deadline.

Thank you for your consideration herein.

Respectfully submitted,

/s/

John Schemitsch
Senior Counsel
Special Federal Litigation Division

Pursuant to Plaintiff's letter dated October 22, 2021, ECF No. 103, Defendants' motion is DENIED as moot.

SO ORDERED.

Dated: October 22, 2021
New York, New York



ANALISA TORRES
United States District Judge